

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,

ELVIN GARRY GRUNDY III,
Bar No. 027545

Respondent.

PDJ 2021-9060

FINAL JUDGMENT AND ORDER

State Bar No. [21-0069, 21-0220, 21-0449]

FILED DECEMBER 1, 2021

The Presiding Disciplinary Judge accepted the parties' Agreement for Discipline by Consent submitted pursuant to Rule 57(a), Ariz. R. Sup. Ct.

IT IS THEREFORE ORDERED that Respondent, **ELVIN GARRRY GRUNDY, Bar No. 027545**, is reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED that Respondent is placed on probation for a period of two years under the following terms:

- a) Law Office Management Assistance Program (LOMAP): Respondent shall participate in LOMAP, including any needed follow-up meetings throughout the period of participation. Respondent shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent shall be responsible for any costs associated with LOMAP.

- b) Continuing Legal Education (CLE): In addition to annual MCLE requirements, Respondent shall complete a CLE course on the subject of post-conviction relief within 180 days from the date of service of this Order. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program(s) by providing a copy of handwritten notes and certificate of completion. Respondent shall contact the Compliance Monitor at 602-340-7258 to make arrangements to submit this evidence. Respondent shall be responsible for the cost of the CLE.
- c) RESTITUTION: Respondent shall pay restitution in the specified amount(s) within 90 days from the date of service of this order, unless otherwise specified herein. Respondent shall contact the State Bar Compliance Monitor at 602-340-7258, to provide proof of timely payment of restitution as follows:
- \$10,000 (count 1) to Christopher Davis
 - \$400 (count 2) to Sandra Anderson
 - \$1,000 (Count 3) to Jeri Bennett
- d) Respondent shall commit no further violations of the Rules of Professional Conduct.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00, within 30 days from the date of service of

this order. There are no costs or expenses incurred by the Office of the Presiding Disciplinary Judge in these proceedings.

DATED this 1st day of December, 2021.

Margaret H. Downie
Margaret H. Downie
Presiding Disciplinary Judge

Copies of the foregoing emailed
this 1st day of December, 2021, to:

Elvin Garry Grundy III
The Grundy Law Firm PLLC
PO Box 90166
Phoenix, AZ 85066-0166
Email: eggrundy@yahoo.com
Respondent

Hunter F Perlmeter
Senior Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: SHunt

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF THE
STATE BAR OF ARIZONA,

ELVIN GARRY GRUNDY III,
Bar No. 027545

Respondent.

PDJ 2021-9060

**DECISION ACCEPTING
AGREEMENT FOR DISCIPLINE BY
CONSENT**

[State Bar Nos. 21-0069, 21-0220, 21-0449]

FILED DECEMBER 1, 2021

The State Bar of Arizona is represented in this matter by Hunter F. Perlmeter. Respondent Elvin Grundy is self-represented. A probable cause order issued on July 13, 2021, and the formal complaint was filed July 20, 2021. On November 23, 2021, the parties filed an Agreement for Discipline by Consent (“Agreement”) pursuant to Rule 57(a), Ariz. R. Sup. Ct.

Contingent on approval of the proposed form of discipline, Mr. Grundy has voluntarily waived his right to an adjudicatory hearing, as well as all motions, defenses, objections, or requests that could be asserted. As required by Rule 53(b)(3), notice of the Agreement was sent to the complainants by letter dated October 26, 2021. No objections have been received.

The Agreement details a factual basis in support of Mr. Grundy’s conditional admissions and is incorporated by reference. *See* Rule 57(a)(4). Mr. Grundy admits violating Rule 42, ERs 1.3 (diligence), ER 1.5 (fees), ER 1.15(d) (safekeeping property), ER 1.16(d) (declining or terminating representation), ER 3.4(c) (knowingly disobey an obligation under

the rules of the tribunal), ER 5.3 (responsibilities regarding nonlawyers), ER 5.5(a) (assist in the unauthorized practice of law), and 8.4(d) (conduct prejudicial to the administration of justice). As a sanction, the parties agree to a reprimand, two years of probation with specified terms, restitution to three former clients, and payment of costs to the State Bar.

In Count One, Mr. Grundy agreed to represent a client in connection with post-conviction relief proceedings. He charged a \$10,000 flat fee that was not accurately described in the fee agreement. Mr. Grundy did not obtain trial transcripts or timely file a notice of post-conviction relief. As a result, the superior court dismissed the proceeding. The client terminated Mr. Grundy and requested a refund. No refund was provided. The parties conditionally admit that Mr. Grundy's conduct in Count One violated ERs 1.3, 1.15(d), 3.4(c), and 8.4(d).

In Count Two, Mr. Grundy failed to supervise his paralegal, which led to the paralegal's unauthorized practice of law. The complainant in Count Two paid the paralegal \$400, believing him to be an attorney. The paralegal did not consult with Mr. Grundy about accepting the representation, and Mr. Grundy has since terminated the paralegal's employment. The parties conditionally admit that Mr. Grundy's conduct in Count Two violated ERs 1.5, 1.16(d), 5.3, and 5.5(a).

In Count Three, Mr. Grundy represented a client on a probation violation. He was paid \$1500 but did not provide a written fee agreement. After Mr. Grundy filed a motion to continue a hearing without consulting his client, the client terminated the representation and requested a refund. Although he promised to refund any unused retainer, Mr. Grundy

did not do so. The parties conditionally admit that Mr. Grundy's conduct in Count Three violated ERs 1.5(a) and (d) and 1.15(d).

Based on the conditional admissions, the parties agree that the presumptive sanction under the ABA Standards for Imposing Lawyer Sanctions is a reprimand and probation.

Mr. Grundy violated duties owed to his clients, resulting in actual harm. The Agreement states that his conduct was negligent. Although the record supports this stipulation, the admitted ER 3.4(c) violation in Count One requires a *knowing* state of mind. See ER 3.4(c) (a lawyer shall not "knowingly disobey an obligation under the rules of a tribunal. . ."). As such, in addition to the parties' reliance on ABA Standard 4.43 ("Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonably diligence in representing a client, and causes injury or potential injury to a client."), Standard 6.22 also arguably applies. It states that suspension "is appropriate when a lawyer knowingly violates a court order or rule, and there is injury or potential injury to a client or a party . . ." It is not clear to the PDJ that the stipulated ER 3.4(c) violation is materially different from the lack of competence and diligence encompassed by Standard 4.43. But even assuming Standard 6.22 applies, there are significant mitigating factors that would justify mitigating a suspension to a reprimand plus probation and restitution.

The parties stipulate to the existence of aggravating factors 9.22(a) (prior disciplinary offenses) and 9.22(d) (multiple offenses). They further stipulate to the existence of mitigating factors 9.32(c) (personal or emotional problems), and 9.32(e) (full and free disclosure to disciplinary board or cooperative attitude towards proceedings). In addition, the PDJ finds that the record supports mitigating factor 9.32(l) (remorse).

Mr. Grundy has provided a detailed letter describing the evidence in mitigation, which includes the death of several relatives and friends during the timeframes at issue due to COVID-19, as well as his own bouts with COVID-19, which led to substantial periods of illness and quarantine. Mr. Grundy states:

During this pandemic, I made a number of grave mistakes stemming from overwork, lack of preparedness for a public health crisis, poor practice management and supervision, and poor decision making during the pandemic. I acknowledge entirely that I fell short with regard to [the Count One] filing, the timing to refund on the [Count Two] matter, and the failure to properly supervise [the paralegal] vis a vis [Count Three]. The mistakes are mine entirely and I have learned from them and regret them.

As a term of probation, Mr. Grundy will participate in the Law Office Management Assistance Program (LOMAP), will obtain additional continuing legal education (CLE), and will pay restitution as follows: \$10,000 (Count One); \$400 (Count Two); and \$1000 (Count Three). Because the purpose of lawyer discipline is not to punish the offender, *In re Scholl*, 200 Ariz. 222, 224 (2001), the PDJ concludes that the Agreement's terms are appropriate.

IT IS ORDERED accepting the Agreement for Discipline by Consent. A final judgment and order is signed this date.

DATED this 1st day of December 2021.

Margaret H. Downie
Margaret H. Downie
Presiding Disciplinary Judge

COPY of the foregoing e-mailed
this 1st day of December 2021 to:

Hunter F. Perlmeter
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6288
Email: LRO@staff.azbar.org

Elvin Garry Grundy
The Grundy Law Firm
PO Box 90166
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Respondent

by: SHunt

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Telephone 602-228-8111
Email: eggrundy@yahoo.com
Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A MEMBER
OF THE STATE BAR OF
ARIZONA,**

**ELVIN GARRY GRUNDY,
Bar No. 027545,**

Respondent.

PDJ 2021-9060

State Bar File Nos. **21-0069, 21-0220,
21-0449**

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

The State Bar of Arizona, and Respondent Elvin Garry Grundy who has chosen not to seek the assistance of counsel, hereby submit their Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct. A probable cause order was entered on July 13, 2021. A formal complaint was filed July 20, 2021.

Respondent voluntarily waives the right to an adjudicatory hearing, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the complainants by letter on October 26, 2021 apprising them of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice. The State Bar has not received any letters of objection.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.3, 1.5, 1.15(d), 1.16(d), 3.4(c), 5.3, 5.5(a) and 8.4(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of a **Reprimand with Probation**, the terms of which are set forth in the Sanctions section below. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within 30 days from the date of this order. If costs are not

paid within the 30 days interest will begin to accrue at the legal rate.¹ The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

FACTS

GENERAL ALLEGATIONS

1. Respondent became licensed to practice law in Arizona on March 19, 2010.

COUNT ONE (File no. 21-0069/ Davis)

2. Respondent represented Complainant Christopher Davis in post-conviction relief (PCR) proceedings following an aggravated DUI conviction in Maricopa County Superior case no. CR2018-001126.

3. Davis paid Respondent a flat fee of \$10,000 for post-trial work.

4. Respondent's April 11, 2019, fee agreement did not reference a \$10,000 flat fee. Rather, it stated: "My current billing rate is \$350 per hour: for the purposes of this Agreement, you will be billed & entitled to an exclusive FLAT rate of \$500.00 prior to any trial."

¹ Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

5. On May 2, 2019, Davis was sentenced. On the same day, Respondent emailed Davis's wife, "we can get ready the petition for relief. Within 90 days file it. I need to start my investigation... ."

6. On May 15, 2019, Davis's wife asked via text message, "Do you think we have something?!" Respondent responded, "I do. Ineffective lawyer, exculpatory new evidence & errors in jury selection."

7. Respondent had not reviewed the trial transcripts and never obtained or reviewed the transcripts at any pointing during the representation.

8. Respondent failed to timely file a notice of request for post conviction relief by the July 31, 2019 deadline.

9. On August 5, 2019, Respondent filed a pleading captioned: "Notice of Rule 32 Post Conviction Relief Petition." In the body of the pleading, Respondent stated: "Pursuant to the Rules of Criminal Procedure, Elvin Garry Grundy, III hereby enters his appearance on behalf of the above-named Defendant for all further proceedings in the case."

10. On January 3, 2020, Davis's wife asked: "When does everything need to be in to the judge for the Rule 32?" Respondent responded, "Given we are arguing new facts, deadlines not applicable under rule 32(d)-(f). I'm trying to

build iron clad case for relief by showing misconduct or withholding of exculpatory evidence.”

11. On January 7, 2020, the court entered a minute entry stating:

Under Rule 32.4(a)(2)(D), Arizona Rules of Criminal Procedure, Defendant was required to file a Notice of Request for Post-Conviction Relief within 90 days of sentencing or within 30 days after the issuance of the order and mandate in the direct appeal, whichever is later. This date is clearly stated in the “Notice of Rights of Review After Conviction and Procedure” form he received at sentencing. Because the Court sentenced Defendant on May 2, 2019, the deadline for his Notice of Request for Post-Conviction Relief was July 31, 2019. Accordingly, this Rule 32 proceeding is untimely.

Not only is the proceeding untimely, but the Notice also fails to allege any basis for Rule 32 relief. When the Notice is untimely, Defendant has the burden of alleging specific claims and adequately explaining why the claims are untimely. See Ariz. R. Crim. P. 32.2(b). He has failed to meet the burden. IT IS THEREFORE ORDERED dismissed Defendant’s “Notice of Rule 32 Post-Conviction Relief Petition” pursuant to Ariz. R. Crim. P. 32.2(b).

12. On January 10, 2020, Davis’s wife forwarded Respondent the following message from Davis:

Can you say with absolute surety that the judge did not dismiss our notice because of a procedural default due to rule 32.4(c)(2)(A). By my calculations we had until

approximately Dec 4, 2019 to either file our petition or a 30 day extension. If we did default and have to file a successive motion the result will be a significant loss of rights for me.

13. Respondent responded, “Yes. We are filing based on new facts. New evidence. So timeline in not applicable.”

14. On the same date, Davis’s wife wrote to Respondent, “he [Davis] really needs to talk to you.”

15. On January 31, 2020, Respondent had not yet spoken to Davis regarding the dismissal. Davis’s wife wrote to Respondent, “Christopher is really concerned that he has not heard from you. Any idea for a visit or call? Any news about the case?”

16. In early February of 2020, Respondent spoke to Davis about the dismissal by phone.

17. In April of 2020, Davis wrote Respondent from prison voicing frustration that Respondent had failed to obtain his trial transcripts and stating: “You advised me that a Rule 32 would be our best route as relief, but your decision was made as far as I can tell without even looking at the records and facts. As I

gain a better understanding of this process many of the issues occurred on the record which are mostly unapproachable via Rule 32.”

18. In June of 2020, Respondent provided Davis an outline of a PCR petition. Davis responded to Respondent that “it was so poorly written it should not have been sent out to me. With no formal training I could write a better petition.”

19. By letter of November 28, 2020, Davis terminated Respondent and requested an accounting and a refund. Respondent did not respond or issue a refund.

20. On January 19, 2021, Davis’s wife reiterated the refund request via text message and indicated that the money was needed to pay for a new attorney.

21. Respondent did not provide a refund.

22. In engaging in the above conduct in Count One, Respondent violated ERs 1.3, 1.5, 1.15(d), 3.4(c), and 8.4(d).

COUNT TWO (File no. 21-0220/Anderson)

23. In December of 2020, Complainant Sandra Anderson met with a man named James Harvey who arranged to meet her at a Scottsdale Starbucks regarding

her legal issues. Harvey's actions and communications leading up to, and during the meeting, led Anderson to believe Harvey was an Arizona licensed attorney.

24. In advance of the Starbucks meeting, Harvey emailed Anderson as follows:

I will see you at 10 AM. I believe we have an action for Intentional Infliction of Emotion Distress (IIED), breach of implied contract, unjust enrichment. Because time is of the most importance, I suggest filing ASAP. This is a tort action that will fail in federal court if past federal statute of limitations. We need Arizona jurisdiction. Because this is a tort action as well there are possible triple damages. The contract cause of action is single damages but subject to punitive damages as well. I will send letter to place him on notice of suit on Monday. Will file on Tuesday. Please be prepared to pay 400. I discussed this case with Elvin Grundy Esq my associate.

25. At the time, Harvey was working for Respondent's law firm as a paralegal.

26. Anderson paid \$400 cash to Harvey with the understanding that he would evaluate her case and provided Harvey with relevant paperwork. Neither Harvey nor Respondent provided a fee agreement to Anderson.

27. Respondent was not present for the meeting with Anderson and has never met Anderson.

28. On January 6, 2021, Anderson wrote to Harvey: “just wondering about my case. Did the demand letter go out? Did a letter go out before this demand letter? You seemed more concerned about the time then anything else as I have not yet heard back from you since I replied. This case is a big deal to me.”

29. Harvey responded: “I will email you late this afternoon.”

30. That afternoon Harvey, without conferring with Respondent regarding the merits of the case, emailed: “After further review of your issues I believe it best that you find legal representation other than the Grundy Law Firm. I will return all material to your choice. If it is to another law firm please provide the address. Although I have spent 10 hours research prep on your issues I will return all money to you. I wish the best for you.”

31. On January 7, 2021, Anderson emailed Harvey, “that demand letter was suppose to go out a week ago today James and you told me it did ... so you lied and told me two times you had sent this do you lie like this to all your clients james omg YOU NEVER HAD SENT OR DONE ONE THING YOU JUST LIED TO ME YOUR A TERRIBLE ATTORNEY JAMES”.

32. On January 11, 2021, Harvey emailed Anderson, in pertinent part: “upon review there was a lot of differences between what you told me and the

results of my review. Therefore I cannot recommend to the firm your case. I wish the best.”

33. Respondent was not copied on the email and Harvey did not include anything in his response correcting Anderson’s misapprehension about him being an attorney.

34. On the same day, Anderson responded: “I don’t understand. I need more details please. What do you mean I need to know. What were the results of your review. Are you saying I don’t have a chance? What are you saying please.”

35. On January 27, Anderson requested a refund and for the return of her file.

36. Neither the fee payment nor the file was ever in Respondent’s possession. Upon information and belief, Harvey is in possession of both.

37. Respondent has terminated Harvey’s employment but does not know the whereabouts of Anderson’s paperwork or payment.

38. In engaging in the above conduct in Count Two, Respondent violated ERs 1.5, 1.16(d), 5.3, and 5.5(a).

COUNT THREE (File no. 21-0449/Bennett)

39. On August 24, 2020, Complainant Jeri Bennett hired Respondent to represent her son, Clifton. Clifton was facing a probation violation in Maricopa County case no. CR2018-104654; he was also charged via direct complaint (CR2020-132093). Bennett paid \$1,500.

40. Respondent did not provide a fee agreement.

41. On August 31, 2020 Respondent filed his notice of appearance and a motion to continue. The court granted the continuance and reset the preliminary hearing for September 24, 2020.

42. On September 4, 2020, Clifton's girlfriend emailed Respondent and informed him that Clifton wished to terminate the representation and asked that a refund be issued.

43. Clifton was frustrated that he had not been consulted regarding the motion to continue.

44. On September 13, 2020, Bennett via email asked Respondent for a refund.

45. On September 14, 2020, Respondent sent an email to Bennett indicating that he would provide a refund of any unused retainer.

46. Also, on September 14, 2020, Clifton's new attorney filed a notice of appearance.

47. On September 30, 2020, Respondent asked Bennett to provide her Venmo or PayPal account so that he could send a refund electronically. Bennett indicated that she did not use either service.

48. On February 9, 2021, Respondent wrote Bennett telling her he would send an accounting and refund.

49. Respondent never sent a refund.

50. In engaging in the above conduct in Count Three, Respondent violated ERs 1.5(a) and (d) and 1.15(d).

CONDITIONAL ADMISSIONS

Respondent's admissions are being tendered in exchange for the form of discipline stated below and are submitted freely and voluntarily and not as a result of coercion or intimidation. Respondent conditionally admits that he violated Rule 42, Ariz. R. Sup. Ct., specifically, ERs 1.3, 1.5, 1.15(d), 1.16(d), 3.4(c), 5.3, 5.5(a), and 8.4(d).

CONDITIONAL DISMISSALS

There are no conditional dismissals.

RESTITUTION

Respondent agrees to pay Restitution in the following amounts within 90 days of entry of the final judgment and order:

- a. \$10,000 (count 1)
- b. \$400 (count 2)
- c. \$1,000 (Count 3)

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanctions are appropriate: Reprimand with Probation for two (2) years, **the terms of probation will consist of:**

1. LOMAP: Respondent shall participate in LOMAP, including any needed follow-up meetings throughout the period of participation. Respondent shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent will be responsible for any costs associated with LOMAP.
2. CLE: In addition to annual MCLE requirements, Respondent shall complete a Continuing Legal Education ("CLE") course on the subject of post-conviction relief (not exceeding 3 hours) within 180 days from the

date of service of this Order. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program by providing a copy of handwritten notes and certificate of completion. Respondent should contact the Compliance Monitor at 602-340-7258 to make arrangements to submit this evidence. Respondent will be responsible for the cost of the CLE.

3. RESTITUTION: Respondent shall pay restitution in counts one, two, and three in the specified amounts within 90 days of the date of service of this Order, unless otherwise specified herein. Respondent shall contact the State Bar Compliance Monitor at 602-340-7258, to provide proof of timely payment of restitution.

a. \$10,000 (count 1)

b. \$400 (count 2)

c. \$1,000 (Count 3)

Respondent shall commit no further violations of the Rules of Professional Conduct.

NON-COMPLIANCE WITH PROBATION

If Respondent fails to comply with any of the foregoing probation terms and the State Bar of Arizona receives information thereof, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether Respondent breached a term of probation and, if so, to recommend an appropriate sanction. If the State Bar alleges that Respondent failed to comply with any of the foregoing terms the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

If Respondent violates any of the terms of this agreement, the State Bar may bring further discipline proceedings.

LEGAL GROUNDS IN SUPPORT OF SANCTION

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in

various types of misconduct. *Standards* 1.3, Commentary. The *Standards* provide guidance with respect to an appropriate sanction in this matter.

In determining an appropriate sanction the Court considers the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. *Standard* 3.0.

The parties agree that the following *Standard 4.4 Lack of Diligence* is the appropriate *Standard* given the facts and circumstances of this matter: *Standard 4.4 Lack of Diligence* provides that Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

The duty violated

Respondent's conduct violated his duty to his clients.

The lawyer's mental state

Respondent negligently violated the ethical rules identified herein.

Injury

There was actual harm to the client in count one.

Aggravating and mitigating circumstances

The presumptive sanction is Reprimand with Probation. The parties conditionally agree that the following aggravating and mitigating factors should be considered:

In aggravation:

9.22(a) prior disciplinary offenses:

- 19-3561 (Reprimand and probation) 1.1, 1.3, 1.4, 8.4(d): in a criminal case Respondent failed to download discovery from the State over an extended period of time.

9.22(d) multiple offenses (all of the violations identified in count 1-3)

In mitigation:

- a) 9.32(c) personal or emotional problems (Exhibit B)
- b) 9.32(e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings.

Discussion

The parties conditionally agree that upon application of the aggravating and mitigating factors the presumptive sanction of Reprimand is appropriate. Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanctions and will serve the purposes of lawyer discipline.

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. In re *Peasley*, 208 Ariz. 27 (2004). Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of Reprimand with Probation and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit C.

DATED this 23rd day of November 2021

STATE BAR OF ARIZONA

/s/ Hunter F. Perlmeter

Hunter F. Perlmeter

Senior Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.

DATED this 23rd day of November, 2021.

A handwritten signature in black ink, consisting of several stylized, overlapping loops and lines, positioned above a horizontal line.

Elvin Garry Grundy
Respondent

DATED this 23rd day of November, 2021.

Approved as to form and content

/s/ Maret Vessella
Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 23rd day of November, 2021.

Copy of the foregoing emailed
this 23rd day of November, 2021, to:

The Honorable Margaret H. Downie
Presiding Disciplinary Judge

Supreme Court of Arizona
1501 West Washington Street, Suite 102
Phoenix, Arizona 85007
E-mail: officepdj@courts.az.gov

Copy of the foregoing mailed/mailed
this 23rd day of November, 2021, to:

Elvin Garry Grundy III
The Grundy Law Firm PLLC
PO Box 90166
Phoenix, AZ 85066-0166
Email: eggrundy@yahoo.com
Respondent

Copy of the foregoing hand-delivered
this 23rd day of November, 2021, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266

by: /s/ Dorian Dawson
HFP/dpd

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona
Elvin Garry Grundy, Bar No. 027545, Respondent

File No(s). 21-0069, 21-0220, and 21-0449

Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

General Administrative Expenses for above-numbered proceedings

\$1,200.00

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Additional Costs

Total for additional costs \$ 0.00

TOTAL COSTS AND EXPENSES INCURRED **\$ 1,200.00**

EXHIBIT B

Dorian Dawson

From: Hunter F. Perlmeter
Sent: Monday, November 1, 2021 6:01 PM
To: Dorian Dawson
Subject: FW: Deviation letter
Attachments: egg bar deviation LTR.pdf



Hunter Perlmeter, Bar Counsel

State Bar of Arizona

4201 N. 24th St., Suite 100 | Phoenix, AZ 85016-6266

T : 602.340.7274 **F :** 602.416.7474

EMAIL: hunter.perlmeter@staff.azbar.org

www.azbar.org

Serving the public and enhancing the legal profession.

From: Eggrundy <eggrundy@yahoo.com>
Sent: Monday, November 1, 2021 5:55 PM
To: Hunter F. Perlmeter <hunter.perlmeter@staff.azbar.org>
Subject: Re: Deviation letter



Grundy/Richie Family...



In Memory of
KENNETH CARL GRUNDY
aka "Uncle Red"



Sept. 20, 1932-April 15, 2020



Grundy/Richie Family...



IN LOVING MEMORY OF

MELVIN FOSTER STROY

JANUARY 8, 1948 - MAY 5, 2020



LIFE'S REFLECTIONS

Melvin was born to Viola Jean Stroy, embraced by Everett Grundy as his son.

He attended Pine Valley School as a young boy, Graduating from Herndon High School in 1965. Melvin was widely known amongst the community affectionally as "SHORTY".

Melvin is proceeded in death by his parents Viola & Everett Grundy, his siblings Margrett-Grundy White, Pattie Grundy-Lewis, Wayne Grundy.



Grundy/Richie Family...



Karen Grundy Williams

Admin

May 5, 2020 ·

So sorry to also post on today...my beloved brother Melvin Stroy passed on today. Melvin was the eldest of twelve for my father and mother Everett & Viola Grundy. We bid him farewell to rest in peace!





Grundy/Richie Family...



Brenda Sharp

Sep 22 ·

RIP Cousin Webster. Beautiful Homegoing Service Yesterday. We will truly miss You!!





Grundy/Richie Family...



Brenda Sharp

5d ·

Family, My Heart is Broken!! My Niece, Your Cousin, Yvonne (Bea) Grundy, Felton's Daughter made her transition today to be with our Lord. Please keep her Sister, Angel, Niece Caitlyn, Fiancé Tony Santos and all the Cali Grundy's in your Prayers.

Weeping, yet Holding on to the Pro... [See More](#)





Grundy/Richie Family...



Karen Grundy Williams

Admin

Sep 15 ·

Sad to share we've lost another family member (Webster Telfor)...the eldest grandson of Ed and Susie Grundy.



4

7 Comments Seen by 54

Like

Comment

Send



Grundy/Richie Family...



Like

Comment

Send



Write a comment...



Karen Grundy Williams

Admin Jan 21 ·

We are sad to share we have one of our patriarch of the family of (Oree Dyes) has pass on today at the age of 86 yrs.

Aug. 12/1934- Jan. 21/2021

Please lift the family in prayer!

3

12 Comments Seen by 61

Like

Comment

Send



Pat Grundy Person
OH MY the memories! Rest easy cousin.



Grundy/Richie Family...



Write a comment...



Pat Grundy Person

Mar 4 ·

Family, a few weeks ago Oree Dyes died. Now his sister, Viola, and his brother, Arthur, both are dealing with serious health issues. Our family members need our prayers now.



You and 9 others

9 Comments

Seen by 77



Care



Comment



Send



Write a comment...



Pat Grundy Person shared a live video.

Feb 24 ·

Sent from my iPhone

> On Nov 1, 2021, at 4:46 PM, Eggrundy <eggrundy@yahoo.com> wrote:

>

> Good afternoon Mr. Perlmeter:

>

> Attached please find my deviation letter.

>

> Respectfully submitted,

> —Garry

>

Beware External Email - Think Before You Act

Links and attachments should not be opened unless expected or verified

>

>

> Sent from my iPhone

GRUNDY LAW FIRM, PLLC
P.O. BOX 90166
Phoenix, AZ 85066-0166
Ph# 602-228-8111
FAX# 888-568-9880
eggrundy@yahoo.com

Confidential & Privileged Communication

Date: November 1, 2021

Re: Elvin Garry Grundy III
State Bar #027545
Deviation Request

Dear Mr. Perlmeter:

Thank you for the opportunity to discuss some of the mitigating factors surrounding my conduct from Early 2020 into late 2020.

While much of the country grappled with the novel coronavirus pandemic, and some here in Arizona questioned whether it was a clear and present danger to the public, I knew as early as March 2020 that covid19 was deadly. One of our first family members to pass away from covid was our Uncle Carl Grundy, in March 2020.

His death was soon followed by the hospitalization of Uncle Fred and his wife Suzette in late March 2020. Both struggled on ventilators while I remained in quarantine for fear of possibly exposing them as well.

Additionally, my mother had been battling dementia, diabetes, and suffers from heart issues: ensuring that she would not suffer the same fate as her brother was critical, so I devoted substantial energy and financial resources to ensuring her quarantine as well as my own quarantine to avoid catching this virus.

As the spring of 2020 came, we were promised by our elected officials that the warm months would kill the virus and we would be able to return to normal. Sadly, this was not the case for my family as more uncles, aunts, and cousins succumbed to the virus. In all cases, we were unable to attend any memorial services or to honor their lives in a meaningful way and instead sent money or flowers to those family members left behind so that they may remain in quarantine.

By the summer of 2020, covid was ravaging my family members —young and old — residing on the Navajo reservation. My cousin Minnie Lee Grundy (not even 40 years young) died and her brother Larry G. Grundy (who shares a birthday with my youngest brother) also died. Their mother, my aunt Sheri, also lost her battle with covid.

In Late June, while, covid continued stalking my family, I made the mistake of breaking quarantine and attending a small birthday party for a doctor friend and her husband. There were no more than a a half dozen people present. Even though the guidelines at the time said no gatherings of 5 or more and no one from outside your immediate family circle, I rolled the dice and appeared for the small celebration on June 24.

Within a week, one of our attendee's brother (who was not present at the gathering) was being hospitalized for covid. He died 3 days later. Ramon Marin's death was a further wake up call to the seriousness of this virus, and I recommitted to quarantine.

By July 4th, I was finally feeling the symptoms: fever, fatigue, difficulty breathing, thinking. I was positive for covid19.

With the death of Ramon Marin and now his brother Francisco (who also attended that small birthday party in late June) being hospitalized, I began writing my own handwritten Last Will and Testament for fear that I too may not survive.

July and August proved to be the most difficult months. I was quarantined at the Doubletree hotel. Respiratory symptoms (difficulty breathing) and fever and fatigue dictated most of the days, and being alone all those weeks was weighing on me mentally — especially as more family members out of state, young and old, began succumbing to the virus: I could not say goodbye to my Uncle Charles in Texas or my grandfather's cousin Robert Charles Richardson — both whom I would see each summer when I was a child and now they were gone too.

It was throughout much of August and into September 2020, that the deaths and the constant quarantine began taking a toll on me mentally and emotionally: I had to remain strong for the family still here, but most importantly, I was concerned about my mother with underlying health issues contracting this virus.

I had to stay away from her because I was not completely recovered (and am still dealing with some of the long term side effects of covid). But explaining to my mother with dementia why I could not see her in person for almost a year was very painful and remains a challenge even now as she asks about her uncles and cousins and nieces and nephews that have all died of covid. These challenges continue even now.

By Labor Day 2020, I still had not achieved the requisite 2 consecutive negative tests: I would test positive then negative then positive. I was advised to remain in quarantine until I achieved two negative tests. Unfortunately, my symptoms had not abated either: my breathing continued to be labored and fatigue and memory fog dominated the day to day. I relied heavily

on my assistant at the time, James Harvey, working remotely. This reliance during the pandemic meant curtailed supervision on my part and resulted in the ethical lapses in this matter.

By late October 2020, I was still experiencing mild symptoms (mostly respiratory) but had achieved 2 negative tests. However, the need to be cautious amid the growing pandemic meant that I remained in quarantine for fear of infecting my mother whom I had not seen in 10 months.

From November into early January 2021, I would return to quarantine only if I made contact with someone who tested positive, so it was a fraught time of inconclusive tests, lingering symptoms, and continued isolation and mental and physical exhaustion.

Over the many years of representing clients, I cannot point to a time like the last two years and the damage it has done to attorneys and their professional relationships, as well as personal.

During this pandemic, I made a number of grave mistakes stemming from overwork, lack of preparedness for a public health crisis, poor practice management and supervision, and poor decision making during the pandemic. I acknowledge entirely that I fell short with regard to Mr. Davis' filing, the timing to refund on the Clifton Hodge matter, and the failure to properly supervise Mr. Harvey vis a vis Karen Anderson. The mistakes are mine entirely and I have learned from them and regret them.

I wish to take this opportunity to thank you for your attention to this letter and if I can be of any further assistance in the matter, I would be happy to do so.

I submit the following letter under the penalty perjury and avow all of its contents are true and correct to the best of my knowledge.

Sincerely,

/s/ Elvin G Grundy III

Elvin G Grundy III
Attorney at Law
PO Box 90166
Phoenix, AZ 85066-0166
Ph#602-228-8111
Fx#888-568-9880
eggrundy@yahoo.com

EXHIBIT C

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A MEMBER
OF THE STATE BAR OF
ARIZONA,**

**ELVIN GARRY. GRUNDY,
Bar No. 027545,**

PDJ 2021-9060

**FINAL JUDGMENT AND
ORDER**

State Bar No. [21-0069, 21-0220, 21-0449]

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepts the parties' proposed agreement.

Accordingly:

IT IS ORDERED that Respondent, **Elvin GARRY. Grundy**, is **Reprimanded** for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED that Respondent is placed on probation for a period of two (2) years. The terms of probation are:

- a) LOMAP: Respondent shall participate in LOMAP, including any needed follow-up meetings throughout the period of participation. Respondent shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent will be responsible for any costs associated with LOMAP.
- b) CLE: In addition to annual MCLE requirements, Respondent shall complete a Continuing Legal Education ("CLE") course on the subject of post-conviction relief within 180 days from the date of service of this Order. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program(s) by providing a copy of handwritten notes and certificate of completion. Respondent should contact the Compliance Monitor at 602-340-7258 to make arrangements to submit this evidence. Respondent will be responsible for the cost of the CLE.
- c) RESTITUTION: Respondent shall pay restitution in the specified amount(s) within 90 days from the date of service of this Order, unless otherwise specified herein. Respondent shall contact the State Bar

Compliance Monitor at 602-340-7258, to provide proof of timely payment of restitution as follows:

- \$10,000 (count 1)
- \$400 (count 2)
- \$1,000 (Count 3)

Respondent shall commit no further violations of the Rules of Professional Conduct.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ _____, within 30 days from the date of service of this Order.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings in the amount of _____, within 30 days from the date of service of this Order.

DATED this _____ day of November, 2021.

**Margaret H. Downie, Presiding Disciplinary
Judge**

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this _____ day of November, 2021.

Copies of the foregoing mailed/emailed
this _____ day of November, 2021, to:

Elvin Garry Grundy
The Grundy Law Firm PLLC
PO Box 90166
Phoenix, AZ 85066-0166
Email: eggrundy@yahoo.com
Respondent

Copy of the foregoing emailed/hand-delivered
this ____ day of November, 2021, to:

Hunter F Perlmeter
Senior Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Copy of the foregoing hand-delivered
this ____ day of November, 2021 to:

Lawyer Regulation Records Manager
State Bar of Arizona

4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: _____